

A wide-angle photograph of a harbor filled with numerous sailboats of various sizes. In the background, a city skyline is visible under a clear blue sky. The water is a deep blue-green. The text 'Maintenance Assessment Districts' is overlaid in white on the lower right portion of the image.

# Maintenance Assessment Districts

# Maintenance Assessment Districts

## Overview

### **What are Maintenance Assessment Districts (MADs)?**

Maintenance Assessment Districts (MADs) are legal mechanisms by which property owners within a specified district can vote to assess themselves to pay for, and receive, special benefit services for the purpose of financing maintenance of open space, street medians, rights-of-way, mini-parks, street lighting, security, flood control, and/or drainage.

### **What kinds of special benefits do MADs fund?**

MADs usually fund maintenance services and, in limited circumstances, construction and installation. The Assessment Engineer's Report for each district outlines the nature of services provided.

#### **Maintenance Services**

MADs are typically used to provide funding for higher levels of maintenance services in public rights-of-way. Examples are: landscape maintenance (irrigation, fertilization, weeding, pruning, pest control, dead tree removal, plant replacement and turf mowing/edging); hardscape maintenance (sweeping and weeding of hardscape medians and curbs/gutters, removal of graffiti, and maintenance of street benches); open space maintenance (safety tree trimming and removal, and litter removal); street light maintenance for light fixtures which exceed what the City provides (energy costs, light bulb and damaged post replacement, and graffiti removal); litter removal; sidewalk steam cleaning; sign maintenance; banner installation/removal; and seasonal decoration installation/removal.

***Note:** Some of the services MADs do not fund include: brush removal, maintenance of slopes which cannot be seen from roadways, retaining walls, clean water retention basins, and landscaping along Caltrans property approaching freeway ramps.*

#### **Construction Projects**

A MAD can be used to provide funding for construction and installation on a limited basis. Assessments to fund construction and installation are limited to five years for landscaping, statues, fountains and lighting, and 30 years for acquisition of parkland or open space land, and park and recreation improvements and maintenance.

### **How are MADs formed?**

#### **By Developer**

A MAD may be formed at the time a new subdivision is built. Developers are usually the primary property owners, so developers determine the scope of services to be provided. The City requires developers to sign a Landscape Maintenance Agreement guaranteeing to maintain the assets until maintenance responsibility can be turned over to a Homeowners' Association, MAD, or other entity. The developer pays the required district formation costs (including an independent Assessment Engineer's Report and balloting) and constructs all of the assets. An Assessment Engineer determines which properties benefit from maintenance of the assets, and apportions a share of the cost of maintenance to each parcel based on the benefit it receives. Prospective buyers of the property are informed of the existence of the MAD as a line item on their property tax bill.

#### **By Community**

A MAD may also be formed by an established community. In these cases, district formation costs are either funded by Community Development Block Grants (CDBG) or by some of the benefiting property owners. Typically, there is a provision that the start-up costs will be refunded from the first year's assessments. A third mechanism to fund MAD formation costs was approved in the Annual Fiscal Year 2003 Budget. An allocation of \$150,000 for this purpose is encumbered during Fiscal Year 2004 in the Environmental Growth Fund (EGF). It is anticipated that the City Council will review and approve eligibility criteria for communities that wish to utilize this fund during Fiscal Year 2004. The fund will pay for initial formation costs; it will be repaid once the

# Maintenance Assessment Districts

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assessments begin. Community members advocating for the MAD usually meet with the Park and Recreation Department and the Assessment Engineer to identify the scope of services and resulting assessment amount that is intended to be favorable to the assessable property owners who will vote for or against MAD formation.

## What is the law authorizing MADs?

MADs are authorized by the State of California and provided for in the “Landscape and Lighting Act of 1972” (Part 2 of Division 15 of the California Streets and Highways Code), applicable provisions of “Proposition 218” (Article XIII D of the California Constitution) and provisions of the “San Diego Maintenance Assessment District Ordinance” (Division 2, Article 5, Chapter VI beginning at Section 65.201 of the San Diego Municipal Code). Under the provisions of these laws, the City can assess properties based on the amount of benefit each property will receive.

## Balloting

A ballot is required to form all MADs. This is not part of an Election Day ballot. Every affected property owner receives a ballot in the mail, at the address on record with the County Assessor. The property owner votes and returns the ballot by mail. City Council authorizes going to ballot, and if a weighted majority of the ballots received by the City Clerk favor district formation, the City Council authorizes the levy and the district is formed with the scope of services identified in the ballot. The scope of services is memorialized in the Assessment Engineer’s Report. A “weighted” vote is one where the vote of a property owner whose assessment will be two dollars counts twice as much as the vote of a property owner whose assessment will be one dollar. No matter how many or few property owners vote, if over 50 percent of the weighted votes received are in favor, the district can be formed.

## How long can it take to set up a MAD?

Normally the process takes five to 10 months to establish and approve a MAD. The City has an annual August 10<sup>th</sup> deadline with the County of San Diego to include MAD assessments on the property tax rolls.

## What are the steps in forming a MAD?

1. Developer or interested community representatives/property owners (“community contacts”) initiate contact with the City of San Diego Park and Recreation Department, Maintenance Assessment District Section (“City staff”) at (619) 533-6778 to express interest in learning how to form a MAD.
2. Developer or community contacts meet with City staff to discuss the petition requirements, potential district boundaries, maintenance areas, services that can and cannot be included, engineering information, costs of forming a district and assessment amount.
3. Developer or community contacts deliver a petition to City staff signed by at least 30 percent of the property owners in the proposed district, indicating the area owners desire to pay an estimated assessment amount for specified benefits.
4. City staff coordinate a meeting with the developer or community contacts and an Assessment Engineering Consultant to discuss details of the proposed district.
5. Assessment Engineer provides a cost estimate for district engineering and balloting for approval by the developer or community contacts. Upon approval, City staff request a deposit from developer or community contacts to cover formation costs so that the Assessment Engineer can begin work.

# Maintenance Assessment Districts

## Overview

6. Developer or community contacts inform City staff when they secure funds to pay for preparing the required report by the Assessment Engineer, balloting, and City staff time (usually \$10,000 to \$65,000 depending on the scope of the district).
7. Developer or community contacts provide detailed information about the location and scope of services being requested. The developer's consultant or City staff calculate proposed cost estimates and the Assessment Engineer allocates cost to parcels based on benefits received.
8. City staff coordinates a meeting with the developer or community contacts and the Assessment Engineer to review the preliminary Assessment Engineer's Report.
9. The Assessment Engineer delivers the Assessment Engineer's Report to City staff for distribution to developer or community contacts. The Assessment Engineer's Report is included with the Request for City Council Action to set a date on which to hold a public hearing, and authorize mailing the ballots.
10. City staff mails a ballot to each assessable property owner, as listed in the most recent certified County Property Tax Roll, a minimum of 45 calendar days prior to the final hearing date.
11. The City Clerk's Office receives completed ballots, which are kept sealed until after the close of the final public hearing. The City Clerk presents district balloting results to the Mayor and City Council. The Mayor and City Council receive the ballot results and take action to either approve the district, Assessment Engineer's Report and the assessment levy or abandon the district based on the ballot results. The earliest a failed ballot can be reballoted is one year.
12. City staff prepares annual enrollment and delivers it to the County Assessor to be included in Property Tax statements to property owners beginning with the December property tax bill after the August 10<sup>th</sup> enrollment.

For more information, visit the City's web page at <http://www.sandiego.gov/park-and-recreation/general-info/mad.shtml>.

